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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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|---------------------------|---|---------------------------------------------------|
| UNITED STATES OF AMERICA, |) | Case No. 2:15-mj-00640-CWH |
| |) | |
| Plaintiff, |) | <u>Emergency Motion to Continue</u> |
| |) | <u>Preliminary Hearing</u> (First Request) |
| vs. |) | |
| |) | |
| REGINALD WEAVER, |) | |
| |) | |
| Defendant. |) | |

COMES NOW the United States of America, by and through DANIEL G. BOGDEN, United States Attorney, and CRISTINA D. SILVA, Assistant United States Attorney, and files motion to continue the preliminary hearing in the above-captioned matter, currently scheduled for November 23, 2015, at 4:00 pm, by one day.

This United States files this motion for the following reasons:

1. The parties had continued the preliminary hearing on two occasions in an attempt to resolve the case via plea agreement prior to indictment. The defendant consented to both continuances

2. On Thursday, November 19, 2015, Assistant Federal Public Defender visited defendant REGINALD WEAVER ("Weaver") Southern Nevada Detention Center. Following his visit, AFPD Riddle informed the government that Weaver would not accept the Government's offer and would not agree to continue the preliminary hearing one more time. AFPD Riddle had contacted the Government via telephone on Tuesday, November 17, 2015 to

**UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,) Case No. 2:15-mj-00640-CWH
)
Plaintiff,) **ORDER**
)
vs.)
)
REGINALD WEAVER,)
)
Defendant.)

FINDINGS OF FACT

Based on the motion of the Government, and good cause, extraordinary circumstances, and that it is in the interest of justice, the Court hereby finds that:

1. The parties had continued the preliminary hearing on two occasions in an attempt to resolve the case via plea agreement prior to indictment, and further that the defendant consented to both continuances.

2. On Thursday, November 19, 2015, Assistant Federal Public Defender visited defendant REGINALD WEAVER ("Weaver") at the Southern Nevada Detention Center. Following his visit, AFD Riddle informed the government that Weaver would not accept the Government's offer and would not agree to continue the preliminary hearing one more time. AFD Riddle had contacted the Government via telephone on Tuesday, November 17, 2015 to advise that Weaver was unhappy with the current plea offer but that he would meet with him on Thursday. On Thursday, November 19, 2015, AFD Riddle sent an email advising that Weaver our not agree to any continuances if the Government would not offer him a specific plea offer.

3. The Grand Jury in the District of Nevada does not meet on Thursdays and Fridays. Accordingly, by the time the United States received formal notice that the plea

1 offer was rejected, the United States could not present the case to the Grand Jury for
2 indictment.

3 6. Consequently, the United States respectfully requests that the Court
4 continue the preliminary hearing date by one day to allow for the case to be presented to the
5 grand jury.

6 7. Pursuant to Federal Rules of Procedure 5.1(d), if a defendant does not
7 consent to a continuance of the preliminary hearing date, the magistrate judge may extend the
8 time limits only on a showing of extraordinary circumstances and justice requiring the delay.
9 The Government was not informed that the defendant would not agree to the plea offer and
10 would not consent to continue the hearing until Thursday, November 19, 2015 at 4:47 pm.
11 Because there is no Grand Jury on Monday, the Government respectfully submits that that is
12 extraordinary circumstances justifying the delay of the hearing by one day, and further that it
would be in the interest of justice to continue the preliminary hearing.

13 For all of the above-stated reasons, noting that the United States cannot present
14 the case to the Grand Jury before the current preliminary hearing date setting, and further that
15 the defendant has twice consented to continuances, the Court finds extraordinary circumstances
exists and that justice so requires a one-day continuance of the preliminary hearing date.

16 Accordingly, the Government's emergency motion to continue the preliminary
17 hearing by one day is hereby GRANTED.

18 **ORDER**

19 IT IS THEREFORE ORDERED that the preliminary hearing currently
20 scheduled for November 23, 2015, at the hour of 4:00 pm, be vacated and continued to
21 November 24, 2015 at 4:00 p.m.

22 DATED: November 23, 2015

23 
24 THE HONORABLE CARL W. HOFFMAN
UNITED STATES MAGISTRATE JUDGE